**Domestic Violence and the**

**Workplace Model Policy**

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2016

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In November 2014, Tompkins County adopted a resolution recognizing that freedom from domestic violence is a fundamental human right and an issue of public concern. Domestic violence negatively impacts victims’ physical and mental health, the lives of their children, and their access to employment, housing, and other basic services. It is an issue that affects individuals of all gender identities, sexual orientations, races, and religions. Domestic violence also affects people with all education levels, working in all fields, and with all levels of income.

For many victims of domestic violence, maintaining employment is critical to asserting economic independence from the perpetrator, but suffering through domestic violence can interfere with work productivity, efficiency, attendance, and job retention. Ensuring that victims of domestic violence have access to a safe and secure workplace that accommodates their needs is part of fulfilling their right to be free from domestic violence.

This Model Policy offers a set of guidelines that will help employers promote safety in the workplace and respond effectively to the needs of victims of domestic violence.

More specifically, the Model Policy outlines how an employer can:

* Provide immediate assistance to employees who are being subjected to domestic violence;
* Help ensure that the workplace is a safe environment for all employees;
* Create and implement a training framework that increases awareness of domestic violence at the workplace and establishes responsive procedures and practices;
* Create a supportive environment where employees are comfortable seeking help from appropriate resources if they are victims of domestic violence; and
* Ensure that assistance and/or disciplinary action is available in relation to employees who have perpetrated domestic violence at the workplace or using employer resources.

Employers can use this Model Policy to develop their own specific policies to achieve these objectives. Please visit **bit.ly/DVModelPolicy** for a digital version of the Model Policy.

**1. Policy Statement**

Domestic violence is a public concern that affects employees in the community and the workplace. In addition to its multiple negative consequences for victims and survivors, domestic violence can spill over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover.

The purpose of this Policy is to identify and prescribe practices that will promote safety in the workplace and respond effectively to the needs of victims of domestic violence, thus helping to secure the fundamental human right to be free from domestic violence as recognized by Tompkins County.

Therefore, [Employer] to the fullest extent possible without violating any existing rules, regulations, statutory requirements, contractual obligations or collective bargaining agreements, designates and directs appropriate management, supervisory, and/or human resources staff to implement the following Policy.

**2. Definitions and Persons Covered by this Policy**

For purposes of this Policy, the following terms are defined as outlined below.

**Domestic Violence**: A pattern of coercive behavior, including acts or threatened acts that are used by a perpetrator to gain power or control over a current or former intimate partner. This behavior includes, but is not limited to, physical and/or emotional or sexual violence, physical and/or psychological intimidation, verbal abuse, stalking, economic control, harassment, threats, injury, or other related crimes.

**Intimate Partner**: Persons of all gender identities and sexual orientations who are or were legally married to one another or who have a child together, or who are or were in an intimate relationship including but not limited to couples who live together or have lived together.

**Perpetrator**: An individual who uses a pattern of coercive tactics, which can include physical, psychological, sexual, economic, and emotional abuse, including threats of abuse, against an intimate partner, with the goal of establishing and maintaining power or control over the intimate partner.

Persons covered by this policy include [Employer’s] full and part time employees, interns, contractors, volunteers, or temporary workers in any workplace location.

**3. Non-Discriminatory and Responsive Personnel Practices for Victimized Employees**

1. [Employer] shall ensure that personnel policies and procedures do not discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence. Victims of domestic violence are a protected class in the employment provisions of the New York State Human Rights Law. [NYS Human Rights Law §296]. As such, [Employer] will not discriminate against any employee for being, or appearing to be, a victim of domestic violence in hiring, staffing, or promotions, or other terms, conditions, or privileges of employment. In addition, [Employer] will not discriminate, retaliate, or take any adverse employment action against any employee who submits a complaint or discloses concerns about domestic violence to the human resources department or any supervisor or co-worker.
2. If [Employer] identifies that an employee is experiencing work performance difficulties that are a result of being a victim of domestic violence, the employee shall be afforded all of the proactive measures outlined in this Policy and shall be provided clear information about performance expectations, priorities, and performance evaluation. If a disciplinary process is initiated, special care will be taken to consider all aspects of the employee’s situation, and all available options to resolve the performance problems will be exhausted.
3. If reasonable measures have been taken to resolve domestic violence-related performance problems of victimized employees, but the performance problems persist and the employee is terminated from employment, [Employer] shall inform the employee of the employee’s eligibility for unemployment insurance. If the employee voluntarily separates from employment, New York State law provides that such employee may, under certain circumstances, be eligible for unemployment insurance benefits. [NY Labor Law §593]. [Employer] will respond quickly to any requests for information that may be needed in the claims process and will not oppose immediate commencement of employee’s receipt of those benefits. [*Note: if applicable*] [Employer] will also inform the employee about the employee’s eligibility to continue receiving health care coverage through [Employer’s] insurance program.

**4. Confidentiality for Victimized Employees**

1. [Employer] shall keep confidential information related to an employee being a victim of domestic violence, to the extent permitted by law and [Employer] policy, and shall not divulge information without the written consent of the victimized employee, unless [Employer] determines that disclosure is necessary to protect the employee’s or the employee’s co-workers’ safety, or to comply with state or federal law. If disclosure does become necessary, [Employer] will only make those disclosures that are strictly necessary to safeguard the employee’s or the employee’s co-workers’ safety, or to comply with the law. In addition, wherever practicable, notice will be given to the victimized employee in advance of disclosure.
2. [Employer] will provide clear guidance about applicable limitations on confidentiality to employees who are victims of domestic violence and to staff providing support to those employees.

**5. Workplace Safety Plans for Victimized Employees**

1. [Employer] shall designate personnel available to support those in need of assistance around the issue of domestic violence. Designated support personnel’s contact information, including name, phone number, and location, will be included in [Employer] materials and clearly posted.
2. The designated support personnel will assist victimized employees in developing and implementing an individualized domestic violence workplace safety plan. The plan should be written down and shared with the victimized employee and the human resources department. The plan should be revised upon the employee’s request. The plan may include but is not limited to: [detail options that may be available in your workplace, for example, developing procedures for alerting security and/or the police; temporarily relocating the victim to a secure area; assessing the physical layout of the work site to identify possible threats to victim safety; and assessing changes that can be made to enhance safety such as options for voluntary transfer or permanent relocation to a new work site, change of work schedule, reassignment of parking space, escort for entry to and exit from the building, responding to telephone, fax, email or mail harassment, and keeping a photograph of the perpetrator and a copy of any existing court orders of protection in a confidential onsite location and providing copies to reception staff and security personnel]. Plans must address additional concerns if the victim and the perpetrator are both employed by [Employer].
3. In consultation with the victim, security personnel should coordinate with the work site’s computer technology personnel to address victim safety concerns. These concerns include the perpetrator’s use of computer technology to harass or stalk a victim or use of information on [Employer’s] website about a victim to locate and harm the victim. The above-described safety plan should address these concerns, including removing identifying information, such as the victim’s telephone number and office location, from [Employer’s] public websites.
4. [Employer] encourages employees to bring their court orders of protection to the attention of [Name or Position]. Once the employee brings forward the order of protection, [detail where the document will be kept and who will have access to it, for example, in a locked filing cabinet in the HR office, accessible only to the person who initially received it from the employee]. In the case of a workplace emergency requiring the presentation of the order of protection to law enforcement, if [Name or Position] is unavailable to obtain the document, [Name or Position (consider Counsel or Director of HR)] will have access to [location where the order of protection is stored].
5. [Employer] shall comply and assist with enforcement of all known orders of protection, particularly orders in which perpetrators have been ordered to stay away from the work site. If requested by the victim of domestic violence or by law enforcement, [Employer] shall provide any information concerning an alleged violation of an order of protection. [Employer] shall respond to employee requests for information and documentation from the workplace that could support judicial protection efforts or help a victimized employee obtain and maintain safety from an alleged perpetrator, to the greatest extent possible on a case-by-case basis, subject to applicable privacy laws.

**6. Workplace Accommodations for Victimized Employees**

1. New York State law makes it an offense for an employer to penalize an employee who, as a victim or witness of a criminal offense, is appearing as a witness, consulting with a district attorney, or exercising his or her rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law. [Employer] will therefore, with prior day notification, allow time off for victims or subpoenaed witnesses to exercise their rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law. [NY Penal Law §215.14].

1. Employees may require work schedule adjustments and time off in order to secure medical or legal assistance or counseling, find new housing, attend court proceedings, relocate, participate in safety planning, or make other safety arrangements. These responsibilities may also include caring for family members who have been impacted by the abuse or violence. [Employer] will make employees aware that to request time off or other accommodations, employees should contact the human resources department. The human resources department will assist the employee in determining the most appropriate form of leave available. When the need for time off is foreseeable, an employee must provide reasonable notice prior to the leave unless advance notice is not feasible. When the need for time off is not foreseeable, the employee should contact the human resources department as soon as reasonably possible after commencing the leave and request permission for further time off. [Employer] will attempt to provide paid leave before requiring the employee to utilize unpaid leave.
2. [Employer] will make reasonable accommodations to permit an employee who is a victim of domestic violence to continue to perform the employee’s job. If a requested accommodation is not feasible, [Employer] will consider alternative accommodations before considering termination.

**7. Modifying Victims’ Employment Benefits**

1. [Employer] shall inform employees who are victims of domestic violence and who separate from a spouse or other covered intimate partner that they shall be allowed to make reasonable changes in employment benefits at any time where possible, in accordance with statute, regulation, contract, and policy.
2. [Employer] will grant and process victimized employees’ requests for necessary changes to electronic payroll transfers as expediently as possible.

**8. Holding Employee Offenders Accountable**

1. [Employer] shall hold accountable employees who engage or assist in acts of domestic violence. In cases in which [Employer] finds that an employee has threatened, harassed, or abused an intimate partner by using job-related authority or resources such as work time, workplace telephones, fax machines, mail, email or other means, the employee shall be subject to corrective or disciplinary action.
2. In cases in which an employee uses his or her job-related authority or resources to knowingly assist a perpetrator to locate a victim, assist a perpetrator to perpetrate acts of domestic violence, or protect a perpetrator from appropriate consequences for his or her behavior, that employee shall be subject to corrective or disciplinary action.
3. If the offending employee’s supervisor becomes aware that the employee has engaged in any of the behaviors prohibited under this policy, the supervisor shall immediately report the employee to the human resources department so that an investigation can begin without delay. If the person who usually investigates the complaints is the alleged perpetrator, the investigation will be immediately reassigned to another personnel member. Both the investigation and, if applicable, disciplinary action shall be prompt and completed within a reasonable time period. In addition to investigating, the human resources department may arrange for interventions and referrals as appropriate in the circumstances of the case.

**9. Enforcing the Prohibition of Possession of Firearms for Convicted Offenders** [*Note: only for applicable employers*]

1. Pursuant to New York State [NY Criminal Procedure Law §530.14] and federal law [18 U.S.C. §922 (g)(8)], a person convicted of a domestic-violence-related crime or subject to an order of protection, under certain circumstances, forfeits the right to legally possess a firearm.
2. In addition to complying with the law, employees who are authorized to carry a firearm as part of their job responsibilities are required to notify [Employer] if they are arrested on a domestic-violence-related offense and/or served with an order of protection. Under certain circumstances, such employees are responsible for surrendering their firearms to their employer or to the appropriate police agency.
3. Should an employee fail to comply with the requirements set forth in 9.b, the employee shall be subject to corrective or disciplinary action. In addition, [Employer] will notify the appropriate law enforcement agency for possible criminal action.

**10. Employee Education, Training, and Resources Regarding Domestic Violence and Related Crimes**

1. [Employer] shall disseminate copies of [Employer’s] Domestic Violence and the Workplace Policy to all employees upon adoption and to all new employees upon hiring or appointment.
2. [Employer] shall increase awareness of domestic violence and inform employees of available sources of assistance. [Employer] shall post information on domestic violence and available resources in the work site in places where employees can obtain it without having to request it or be seen removing it, such as on [Employer’s] intranet and in private areas of restrooms, lounge areas, and lunch sites. This information shall include available sources of assistance such as Employee Assistance Programs, local domestic violence service providers, and the names and contact information of the appropriate human resources personnel who are trained and available to serve as confidential sources of information, support, and referral.
3. [Employer] shall integrate information on domestic violence and this Policy into existing materials and literature, policies, protocols, and procedures, including existing workplace violence prevention plans or protocols.
4. [Employer] shall conduct domestic violence awareness activities such as “brown bag” lunch talks and other health and wellness programs.
5. All managers and human resources employees shall participate in trainings on domestic violence and the workplace, which shall include training on the implementation of this Policy. If possible, [Employer] will also make training on domestic violence and the workplace available to all staff and encourage staff members to attend these trainings.
6. Training materials shall be integrated into existing union and management training programs, agency training programs, and violence prevention training programs.

**11. Monitoring the Success of this Policy**

1. [Employer] will review how consistently new procedures are being implemented, will monitor the usage rate and efficacy of employees accessing services to address domestic violence, and will review incident reports for the quality of security responses and actions taken.
2. [Employer] will develop a review group for this purpose, which will include representatives from security, human resources, employee assistance, and other relevant offices, as appropriate.

**Compiled by**

Advocacy Center of Tompkins County

Cornell Law School’s Gender Justice Clinic

Tompkins County Human Rights Commission

Tompkins County Office of Human Rights

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 For more information,

please contact genderjustice@cornell.edu